

AMENDED IN SENATE MAY 7, 2013
AMENDED IN SENATE APRIL 18, 2013

SENATE BILL

No. 306

Introduced by Senator Price
(Principal coauthor: Assembly Member Gordon)

February 15, 2013

An act to amend Sections 1000, 2530.2, 2531, 2531.75, 2533, 2570.19, 2602, and 2607.5 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 306, as amended, Price. Healing arts: boards.

The Chiropractic Act, enacted by an initiative measure, provides for the regulation and licensing of chiropractors in this state by the State Board of Chiropractic Examiners. Existing law specifies that the law governing chiropractors is found in the act.

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature. The bill would require that the review of the board be performed as if these provisions were scheduled to be repealed on January 1, 2018.

Existing law, the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, provides for the licensure and regulation of speech-language pathologists, audiologists, and hearing aid dispensers by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. The act authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2014, and subjects the board to review by the Joint Committee on Boards, Commissions, and Consumer Protection.

This bill would extend the operation of these provisions until January 1, 2018, and provide that the repeal of these provisions subjects the board to review by the appropriate policy committees of the Legislature. ~~The bill would also rename the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board as the California Speech and Hearing Board. The bill would make conforming changes.~~

The Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act also authorizes the board to refuse to issue, or issue subject to terms and conditions, a license on specified grounds, including, among others, securing a license by fraud or deceit.

This bill would additionally authorize the board to refuse to issue, or issue subject to terms and conditions, a license for a violation of a term or condition of a probationary order of a license issued by the board, as provided.

Existing law, the Occupational Therapy Practice Act, provides for the licensure and regulation of occupational therapists, as defined, by the California Board of Occupational Therapy. Existing law repeals those provisions on January 1, 2014, and subjects the board to review by the Joint Committee on Boards, Commissions, and Consumer Protection.

This bill would extend the operation of these provisions until January 1, 2018, and provide that the repeal of these provisions subjects the board to review by the appropriate policy committees of the Legislature.

Existing law, the Physical Therapy Practice Act, provides for the licensure and regulation of physical therapists by the Physical Therapy Board of California. The act authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2014.

This bill would extend the operation of these provisions until January 1, 2018.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1000 of the Business and Professions
- 2 Code is amended to read:
- 3 1000. The law governing practitioners of chiropractic is found
- 4 in an initiative act entitled “An act prescribing the terms upon
- 5 which licenses may be issued to practitioners of chiropractic,
- 6 creating the State Board of Chiropractic Examiners and declaring

its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith,” adopted by the electors November 7, 1922. Notwithstanding any other law, the powers and duties of the State Board of Chiropractic Examiners, as set forth in this article and under the act creating the board, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

SEC. 2. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) “Board” means the ~~California Speech and Hearing Board. As used in this chapter or any other provision of law, “Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board” or “Speech-Language Pathology and Audiology Board” shall be deemed to refer to the California Speech and Hearing Board or any successor.~~ *Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.*

(b) “Person” means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A “speech-language pathologist” is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i) (1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be

1 responsible for the extent, kind, and quality of the services provided
2 by the speech-language pathology assistant.

3 (2) The supervising speech-language pathologist employed or
4 contracted for by a public school may hold a valid and current
5 license issued by the board, a valid, current, and professional clear
6 clinical or rehabilitative services credential in language, speech,
7 and hearing issued by the Commission on Teacher Credentialing,
8 or other credential authorizing service in language, speech, and
9 hearing issued by the Commission on Teacher Credentialing that
10 is not issued on the basis of an emergency permit or waiver of
11 requirements. For purposes of this paragraph, a “clear” credential
12 is a credential that is not issued pursuant to a waiver or emergency
13 permit and is as otherwise defined by the Commission on Teacher
14 Credentialing. Nothing in this section referring to credentialed
15 supervising speech-language pathologists expands existing
16 exemptions from licensing pursuant to Section 2530.5.

17 (j) An “audiologist” is one who practices audiology.

18 (k) “The practice of audiology” means the application of
19 principles, methods, and procedures of measurement, testing,
20 appraisal, prediction, consultation, counseling, instruction related
21 to auditory, vestibular, and related functions and the modification
22 of communicative disorders involving speech, language, auditory
23 behavior or other aberrant behavior resulting from auditory
24 dysfunction; and the planning, directing, conducting, supervising,
25 or participating in programs of identification of auditory disorders,
26 hearing conservation, cerumen removal, aural habilitation, and
27 rehabilitation, including, hearing aid recommendation and
28 evaluation procedures including, but not limited to, specifying
29 amplification requirements and evaluation of the results thereof,
30 auditory training, and speech reading, and the selling of hearing
31 aids.

32 (l) A “dispensing audiologist” is a person who is authorized to
33 sell hearing aids pursuant to his or her audiology license.

34 (m) “Audiology aide” means any person meeting the minimum
35 requirements established by the board. An audiology aide may not
36 perform any function that constitutes the practice of audiology
37 unless he or she is under the supervision of an audiologist. The
38 board may by regulation exempt certain functions performed by
39 an industrial audiology aide from supervision provided that his or

1 her employer has established a set of procedures or protocols that
2 the aide shall follow in performing these functions.

3 (n) “Medical board” means the Medical Board of California.

4 (o) A “hearing screening” performed by a speech-language
5 pathologist means a binary puretone screening at a preset intensity
6 level for the purpose of determining if the screened individuals
7 are in need of further medical or audiological evaluation.

8 (p) “Cerumen removal” means the nonroutine removal of
9 cerumen within the cartilaginous ear canal necessary for access in
10 performance of audiological procedures that shall occur under
11 physician and surgeon supervision. Cerumen removal, as provided
12 by this section, shall only be performed by a licensed audiologist.
13 Physician and surgeon supervision shall not be construed to require
14 the physical presence of the physician, but shall include all of the
15 following:

16 (1) Collaboration on the development of written standardized
17 protocols. The protocols shall include a requirement that the
18 supervised audiologist immediately refer to an appropriate
19 physician any trauma, including skin tears, bleeding, or other
20 pathology of the ear discovered in the process of cerumen removal
21 as defined in this subdivision.

22 (2) Approval by the supervising physician of the written
23 standardized protocol.

24 (3) The supervising physician shall be within the general
25 vicinity, as provided by the physician-audiologist protocol, of the
26 supervised audiologist and available by telephone contact at the
27 time of cerumen removal.

28 (4) A licensed physician and surgeon may not simultaneously
29 supervise more than two audiologists for purposes of cerumen
30 removal.

31 SEC. 3. Section 2531 of the Business and Professions Code is
32 amended to read:

33 2531. (a) There is in the Department of Consumer Affairs the
34 ~~California Speech and Hearing Board~~ *Speech-Language Pathology*
35 *and Audiology and Hearing Aid Dispensers Board* in which the
36 enforcement and administration of this chapter are vested. The
37 ~~California Speech and Hearing Board~~ *Speech-Language Pathology*
38 *and Audiology and Hearing Aid Dispensers Board* shall consist
39 of nine members, three of whom shall be public members.

1 (b) This section shall remain in effect only until January 1, 2018,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2018, deletes or extends that date.
4 Notwithstanding any other law, the repeal of this section renders
5 the board subject to review by the appropriate policy committees
6 of the Legislature.

7 SEC. 4. Section 2531.75 of the Business and Professions Code
8 is amended to read:

9 2531.75. (a) The board may appoint a person exempt from
10 civil service who shall be designated as an executive officer and
11 who shall exercise the powers and perform the duties delegated
12 by the board and vested in him or her by this chapter.

13 (b) This section shall remain in effect only until January 1, 2018,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2018, deletes or extends that date.

16 SEC. 5. Section 2533 of the Business and Professions Code is
17 amended to read:

18 2533. The board may refuse to issue, or issue subject to terms
19 and conditions, a license on the grounds specified in Section 480,
20 or may suspend, revoke, or impose terms and conditions upon the
21 license of any licensee for any of the following:

22 (a) Conviction of a crime substantially related to the
23 qualifications, functions, and duties of a speech-language
24 pathologist or audiologist or hearing aid dispenser, as the case may
25 be. The record of the conviction shall be conclusive evidence
26 thereof.

27 (b) Securing a license by fraud or deceit.

28 (c) (1) The use or administering to himself or herself, of any
29 controlled substance; (2) the use of any of the dangerous drugs
30 specified in Section 4022, or of alcoholic beverages, to the extent,
31 or in a manner as to be dangerous or injurious to the licensee, to
32 any other person, or to the public, or to the extent that the use
33 impairs the ability of the licensee to practice speech-language
34 pathology or audiology safely; (3) more than one misdemeanor or
35 any felony involving the use, consumption, or self-administration
36 of any of the substances referred to in this section; or (4) any
37 combination of paragraph (1), (2), or (3). The record of the
38 conviction shall be conclusive evidence of unprofessional conduct.

39 (d) Advertising in violation of Section 17500. Advertising an
40 academic degree that was not validly awarded or earned under the

1 laws of this state or the applicable jurisdiction in which it was
2 issued is deemed to constitute a violation of Section 17500.

3 (e) Committing a dishonest or fraudulent act that is substantially
4 related to the qualifications, functions, or duties of a licensee.

5 (f) Incompetence, gross negligence, or repeated negligent acts.

6 (g) Other acts that have endangered or are likely to endanger
7 the health, welfare, and safety of the public.

8 (h) Use by a hearing aid dispenser of the term “doctor” or
9 “physician” or “clinic” or “audiologist,” or any derivation thereof,
10 except as authorized by law.

11 (i) The use, or causing the use, of any advertising or promotional
12 literature in a manner that has the capacity or tendency to mislead
13 or deceive purchasers or prospective purchasers.

14 (j) Any cause that would be grounds for denial of an application
15 for a license.

16 (k) Violation of Section 1689.6 or 1793.02 of the Civil Code.

17 (l) Violation of a term or condition of a probationary order of
18 a license issued by the board pursuant to Chapter 5 (commencing
19 with Section 11500) of Part 1 of Division 3 of Title 2 of the
20 Government Code.

21 SEC. 6. Section 2570.19 of the Business and Professions Code
22 is amended to read:

23 2570.19. (a) There is hereby created a California Board of
24 Occupational Therapy, hereafter referred to as the board. The board
25 shall enforce and administer this chapter.

26 (b) The members of the board shall consist of the following:

27 (1) Three occupational therapists who shall have practiced
28 occupational therapy for five years.

29 (2) One occupational therapy assistant who shall have assisted
30 in the practice of occupational therapy for five years.

31 (3) Three public members who shall not be licentiates of the
32 board, of any other board under this division, or of any board
33 referred to in Section 1000 or 3600.

34 (c) The Governor shall appoint the three occupational therapists
35 and one occupational therapy assistant to be members of the board.
36 The Governor, the Senate Committee on Rules, and the Speaker
37 of the Assembly shall each appoint a public member. Not more
38 than one member of the board shall be appointed from the full-time
39 faculty of any university, college, or other educational institution.

1 (d) All members shall be residents of California at the time of
2 their appointment. The occupational therapist and occupational
3 therapy assistant members shall have been engaged in rendering
4 occupational therapy services to the public, teaching, or research
5 in occupational therapy for at least five years preceding their
6 appointments.

7 (e) The public members may not be or have ever been
8 occupational therapists or occupational therapy assistants or in
9 training to become occupational therapists or occupational therapy
10 assistants. The public members may not be related to, or have a
11 household member who is, an occupational therapist or an
12 occupational therapy assistant, and may not have had, within two
13 years of the appointment, a substantial financial interest in a person
14 regulated by the board.

15 (f) The Governor shall appoint two board members for a term
16 of one year, two board members for a term of two years, and one
17 board member for a term of three years. Appointments made
18 thereafter shall be for four-year terms, but no person shall be
19 appointed to serve more than two consecutive terms. Terms shall
20 begin on the first day of the calendar year and end on the last day
21 of the calendar year or until successors are appointed, except for
22 the first appointed members who shall serve through the last
23 calendar day of the year in which they are appointed, before
24 commencing the terms prescribed by this section. Vacancies shall
25 be filled by appointment for the unexpired term. The board shall
26 annually elect one of its members as president.

27 (g) The board shall meet and hold at least one regular meeting
28 annually in the Cities of Sacramento, Los Angeles, and San
29 Francisco. The board may convene from time to time until its
30 business is concluded. Special meetings of the board may be held
31 at any time and place designated by the board.

32 (h) Notice of each meeting of the board shall be given in
33 accordance with the Bagley-Keene Open Meeting Act (Article 9
34 (commencing with Section 11120) of Chapter 1 of Part 1 of
35 Division 3 of Title 2 of the Government Code).

36 (i) Members of the board shall receive no compensation for
37 their services, but shall be entitled to reasonable travel and other
38 expenses incurred in the execution of their powers and duties in
39 accordance with Section 103.

(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.

(k) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 7. Section 2602 of the Business and Professions Code is amended to read:

2602. The Physical Therapy Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 8. Section 2607.5 of the Business and Professions Code is amended to read:

2607.5. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.